EXHIBIT B

State of Iduly

License and Certificate of Water Right

				·5.
Water License No 4158			Aı	mount . 1400 .sea. ft.
Water District No70			Pı	iority 9-3-1908
THIS IS TO CERTIFY that	. Americ	an Falla	Power Co	ompa ny
of Pocatello, Id	a ho	, made ar	plication for	a permit to appropriate the
public waters of the State of Idaho, o	lated Septem	-		st Permit No. 4168
was issued under said application; that	of Certificate of Co			
second feet, was issued thereunder o		mber 17		, showing that said works
were completed on the 26th day	of Rove	mter		; and that on the 28th
day of November	, 19 1,9,		•	,,
	Idal	o Power	Company	
of Boise , St	ate of Id	laho	, made proc	of to the satisfaction of the
Commissioner of Reclamat Enteringings of Idaho, of a right t	to the use of the v	raters of	Snake l	River
a tributary of Columbia Riv	er , for the pu	rpose of g	eneratini	g electric power .
under Use Permit No. , 4168	of the	Column Fast	oner gri	r electric power . Replamation and right to the use of said
waters has been perfected in accord Commissioner of Reclamat Engineer of Idaho and entered of re	ance with the law ion cord in Volume	vs of Idaho, ō∖of Licer	and is here	by confirmed by the State 2529 on the 5th
day of February	19 20 :			
The right hereby confirmed d	*	Şeptemb	er 3	1908 ;
1 1	, "	, , , , , , , , , , , , , , , , , , ,	211 12	,
in the SW 1/4 SE 1/4, Sec.	. 30 .Tp.	, è. ' k	DI P.	, B. M.
That the amount of water to	which such right	is entitled a	and hereby o	onfirmed, for the purposes
aforesaid, is limited to an amount ac	ctually needed and	beneficially	used for sa	ld purposes, and shall not
exceed 1400 cubic feet per	second.	h	į	
Description and location of us	se: At the te	or of Am	iji grjoan Fe	alle, Idaho.
Twp. Range Sec. Fort	ty-ạcrè Tract		Acres	No. Acres Actually Irrigated
			•	

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of

we herein described, as provided by the laws of Idaho.

General assistant of the Apparatus of the Apparatus affixed at Roise, Idaho, this 5th day of February , p. go

 W. C.	Svendae	בביים:		,
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

A CATACON TO LICENSE TO	MINITER OF STREET	
	CIVIL CASE NUMBER	R: 39356
IN RE THE GENERAL ADJUDICATION	Ident, Number A01-0	2017
OF RIGHTS TO THE USE OF WATER FROM	Date Received	
THE SNAKE RIVER BASIN WATER SYSTEM	Receipt Number	1 4 4
	* ************************************	
NOTICE OF C	LAIM	
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WATER RIG	HT	ទៅមេ ២ ភូមិ ជាមេ ភូមិ៖
ACQUIRED UNDER ST	ATE LAW	
Please type or print clearly the control of the con		
Please type or print clearly the result of t		
1. Name of Claimant (s) Idaho Power Company	Phone (208) 383-2300
Mailing Address and Nov. P.O. Box 70, Boise, Idaho.	ing the region of the em Z I	р и 83702 и и
2. Date of Priority (Only one (1) per claim) September 3, 19	008	But Miller Garage
	* · · · · · · · · · · · · · · · · · · ·	Paragraph of the Control of the Cont
Source of water supply (a)Snake_River		
which is tributary to (b) Columbia River		
4. a. Location of existing point of diversion is: Township 78	Range 31E Sec	tion <u>30</u>
1/4 ofSW 1/4 of _SE 1/4 , Govt. Lot,	B.M., County of Power	· · · · · · · · · · · · · · · · · · ·
Additional points of diversion if any:		
to If instrume flags, beginning point of claimed instrume flags by		and the second section of the
b. If instream flow, beginning point of claimed instream flow is:		
Township Range Section	1/4 of	_ 1/4 of1/4,
Govt. Lot/ B.M., County of 13 (80 - 148) 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		
ending point is: Township You have Range S	ection,	1/4 of 1/4 of
1/4, Govt. Lot B.M., County of	Section of the sectio	in the second second
and the second s	and the second s	
Description of existing diversion works (Dams, Reservoirs, Ditch including the dates of any changes or enlargements in use, the		
, ,	merican Falls Power P	
Control of the Contro		
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·	Power		•	: 5	ригр	oses f	rom	1/1	L 3 1 3	to $\frac{1}{2}$	2/31	am	ount	1,40	00	or			
ır																			
or			<u> </u>		purp	oses f	rom			to		am	ount	·		or	····		
or :	,			100	purp	oses f	rom			to	e fa	am	ount		ragan 72 Biyaran	or	i. i	obin.	
Tota	al quant	ity cla	imed	(a)	1,4	400			* 134 3 F	cfs) an	d/or (b) - 3	. 11			⁻ . :` ,		(ac	re feet)
Tota	al quant al consu	moth	/e USë (claime	d Is		200			ac	re feet	per ai	inum.		5 4.4			· \	
Nor	n-irrigati stock Ei	on us	es; des	cribe	fully (e		mestic	: Giv	e num	ber of	house	holds	serve	d: Sto	ockwa	ter: Ty	ре аг	nd nun	nber of
a. b.	scription If water If water in the c	is for is us orres	irrigati ed for c	on, inc other p g place	urpos	es, pla	ice a s	ymbo ee inst	of u	se (exa	ample:	D for ard sy	Dome	istic)			11/4 11/4		Totals
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									To	tal nun	nber o	f acres	Irrig	ated	1	N/A	<u> </u>		
1. In	which	count	y (les) :	are lan	ds list	ed abo	ove as	place				D.	lrrig wer	ated	1	N/A	<u> </u>		
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2. Do	which o	vn the	эргоре	rty list	ed ab	ove as	place	of us	e of us	se loca Ye	ited? .	Po X	wer	No .					
12. Do If : 13. Do	o you ov your and escribe a 1-020	wn the swer I any of 32;01	prope s No, d ther wa t-0204	erty list lescrib ater rig 46; tr	ed ab e in R hts us	ove as emark ed at t er of	place s belo he sai	of us w the me pla hts	e of us e? autho ace ar 463	Yes ority you and for t 464	ited? . s _ ou hav he sai	X e to cla	wer	No is wat	er rigi	nt. ed ab	ove.	or No	ne ()
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2. Do If y 3. Do - 4. Re ± π t	o you ov your and escribe escribe 11-020 136 comarks: laims the devient possessible those	wn the swer! any ol 32;01 fs; 1 and welop roject	propes No, dether was 1-0204 permit no Pour water pment ct, the racts	erty list lescrib ter rig 46; tr tapp wer C r rig of t e Comp and	ed above in R hts use ansfilication particularly any any agre	ed at ter of tion ny ha appliates also swate	places below the said for as find the said Americant said and the said	of us w the ne pla hts 7,85 led, ons ican ered ight	e of use e? authorized are are 463 or w for Fal int cla	Yearity yound for the 464 the 1st Day of verifies 1 Comp	s ou hav he san be f1 Ameri mm in rious the Coany	X e to clame purefici ling can F 1927 cont	wer poses al u the falls and ract y is	No is wat as de se c abov pow the an in reco	er rightescrib	nt. ed ab for feren lant seque reeme	iced In cent lent lents	adju conju 1976 that of re	dication dam re may be viewin whethe
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Last Name

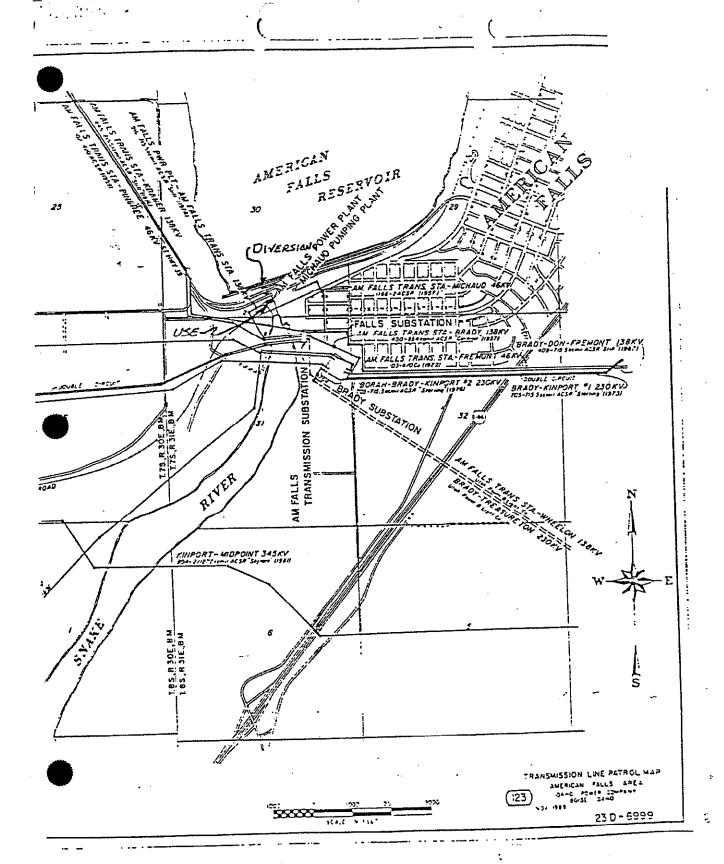
Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

(SEE ATTACHED)

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Last Name Idaho Power Company Ident No. 01-02017 Copies: White-State, Yellow-Claimant



15.	. Basis of Claim (check one) Beneficial Us Decree			
	If applicable provide IDWR Water Right No	umber 01-02017		
}	Court	Case Number		Decree Date
	Plaintiff vs Defendant		·······	
16. For l	Signature (s) (a.) By signing below, I/We acknowledge "How you will receive notice in the Snake wish to receive and pay a small annual fer Number of attachments or Individuals: I do solemnly swear or affirm to	River Basin Adjudication." e for monthly copies of the	(b.) I/ docket	We do do not sheet,
	d correct.			-
	Signature of Claimant (s)			Date
	`. E.			D.A.
For	or Organizations: I do solemnly swear or aff			·
of	Idaho Power Company			
	Organization			
ioc	ocument in the space below as	Title	_ or _	Organization
and	nd that the statements contained in the forego	ing document are true and	correc	<u>-</u>
2110	·			
	Signature of Authorized Agent	· June C.	(v	
				Date
N	Title and Organization			DateDate
Çou	ounty of) SS.	1811		y of <u>October</u> 19 96
Sub	ubscribed and sworn (or affirmed) before me	this 10th	day	y of
	SEAL	Notary Public	uo	whart Steinland
	·	Residing at So	ody	J -
	.5	My Commission Exp	ilres (12-17-97
		•		
	{	Please Print Name		
Not of t	7. Notice of Appearance: lotice is hereby given that I, f the claimant signing above, and that all notice hould be mailed to me at the address listed be	Tucker ces required by law to be m	ailed b	will be acting as attorney at law on beh y the director to the claimant signing abo
Not of t	7. Notice of Appearance: lotice is hereby given that I, f the claimant signing above, and that all notic hould be mailed to me at the address listed by	Tucker ces required by law to be m	ailed b	
Not of the short Sign	7. Notice of Appearance: lotice is hereby given that I, f the claimant signing above, and that all notice	Tucker ces required by law to be melow.	_	
Not of the short Sig	7. Notice of Appearance: lotice is hereby given that I, If the claimant signing above, and that all notice thould be mailed to me at the address listed be beginned by the signature P.O. Box 1906, Twin Factorian Company C	Tucker ces required by law to be melow.	_	
Not of the short Sig	7. Notice of Appearance: lotice is hereby given that I, If the claimant signing above, and that all notice hould be mailed to me at the address listed be signature P.O. Box 1906. Twin Fa	Tucker ces required by law to be melow.	_	

Last Name Idaho Power Company Ident. Number 01-02017

State of Idaho

License and Certificate of Water Right

Water	Liconse	No.	14067
Water	District	No	36

Amount 4,600 sec. ft. Priority 3-8-1919

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ព្	Poise, idal	to to		nude ar	plicatio	n for	a permit t	o appropi	riate the
nublic	waters of the St-	rte of Idelio, dated	March	8 ,	19 19	; tha	t Permit N	0. 140	67
and to	rned under said.	epplication; that Co	rtificate	of Compl	letion of	work	s, with a car	rrying cap	pacity of
4 ₄ 60	65 second fost, m	as issued thorounde	con J	uly 21		, 19	24, showin	g that sai	id works
भ कुर भ	and no legislean	let day of	Ju	ly		, 19	24 ; and the	at on the	lst
day of	July	, 1924	,						

Idaho Power Company

of Boise , State of Idaho , made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of the right to use the waters of Sneks River , a tributary of Columbia River , for the purpose of power , under Ure Permit No. 14067 of the Commissioner of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in

of Licenses, at page 3175, on the 21st day of July

The right hereby confirmed distor from March 8 , 1019 ;

The Point of Diversion is located in the SW 14SE 14. Sec. 30 , Tp. 7 S. R. 31 B. , B. M.

Oounty of Power.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 4,600 culic feet per ascoul.

Description and beation of use:

Twp.	Rango	Sec.	Forty-pour 3 ract	No. Agres' Pénaribed du Eprofit	No. Acres Actually Litigated
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•				Very Section	

The right to the use of the water storessid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, soliced at Boise, Idaho, this 21st day of July ,19 24.

W. C. SWEIDSEIL

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any o	e time	, said	wate	rs to b	e div	erted	with	in the										
		SW 3	SE	Sec.	30,	Twp	, 7 S	, Rge	. 3	1 E	,В.	М.						
any one time, said waters to be diverted within the SW\(\frac{1}{2}\)Sec. 30, Twp. 7 S, Rge. 31 E, B.M. in the county of Power; and that the amount of water so diverted and to which such right is entitled and confirmed is for the purposes aforesaid and is limited to the amount which can																		
actua	lly be b	encli	cia ily	used a	រច់, ១រ	ull n	ot exc	eed _1	, 11	17, 5	590		_acr	e fee	t po	r You	r BH	·
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DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2
Boine, Idaho 83707
(208) 384-2215



R. Keith Higginson Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and

Flood Control Districts

December 9, 1971

Idaho Power Company Box 30 Boise, Idaho 83707

Gentlemen:

A representative of this department has made an examination of the works covered by your Permit No. 16635/01-2046 and has found the following:

Amount o	f water that can be recognized as beneficially used under Idaho 2,000 cfs
The maxi per seaso	mum quantity diverted shall not exceed 1,447,590 acre fe
	1 1
Beneficia	I Use: Power generation purposes within the NW4NE4, Sec.
	I Use: Power generation purposes within the NW4NE4, Sec. 7S, Rge. 31E, B.M. (American Falls Project)

If you do not concur with these findings, please advise us within 10 days; otherwise, a license will be issued as set forth in this letter.

Very truly yours,

BOBBY D. FLEENOR Assistant Director

BDF:DR

Form 202 /92

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1.	Name of applicant Idaho Power Company	Phone	<u>388-2300</u>
	Post office address P.O. Box 70, Boise, Idaho, 83702		
2.	. Source of water supply <u>Snake River</u> which is	a tributary of	Columbia River
3.	. Location of point of diversion is ¼ of ¼ of	SE 1/4,	Govt. Lot
	Sec. 30 Township 7S Range 31E B.M.	1. Power	County; additional
	points of diversion if any:	unu unu	
4.	. Water will be used for the following purposes:		
	Amount 7,850 cfs Power purposes from 1/1 purposes from 1/1	to 12/31	_ (both dates inclusive)
•	Amount for purposes from :	to	_(both dates inclusive)
·	Amount for purposes from	to	_ (both dates inclusive)
	Amount for purposes from	to	_ (both dates inclusive)
5.	. Total quantity to be appropriated is (a) 7.850 and/or (b) acre to	ret per annum	
	Proposed diverting works:		
	a. Description of ditches, flumes, pumps, headgates, etc. American Fa	alls Power	Plant
	± (n . ♥		
	b. Height of storage dam feet; active reservoir capacit	у	acre-feet; total
	reservoir capacity acre-feet; period of year when wat	er will be dive	erted to storage:
	toinclusive.		
	c. Proposed well diameter is inches; proposed depth o	f well is	feet.
	d. Is ground water with a temperature of greater than 85°F being sough	ht?	·
	tf well is already drilled, when?; Drilling firm;		;
•	Well was drilled for <i>(well owner)</i>		
7.	. Time required for the completion of the works and application of the wa	ter to be prop	osed beneficial use is
ε	existing project years (minimum 1 year).		

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3.	Descri	ption	of pro	posed	d use:	s (if ir.	rigati	on on	ly, go	to ite	em 9));								
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	b. Sto	ckwat	ering;	list n	umbe	erano	l kind	of liv	estoc	k					···					
	c. Mu	nicipa	l; sho	w nai	me of	muni	icipal	ity											10014	
	d. Dor	nestic	shov	w nun	nber d	of hou	ısehc	ids							····					
	e. Oth	er; de	scribe	fully	p	ower											· · · · · · · · · · · · · · · · · · ·		100,00	
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9.	Descr	iption	of pl	ace o	fuse															
	a. If w	~																		
	b. If w	vater i	s use	ed for	othe	rpur	pose	s, pla	ce a	symb	ol of	the u	ise (e.	xamp	le: D	for D	omes	stic) ir	the corres-	
	pon	ding p	lace o	of use	belo	w. Se	e ins	tructi	ons fo	or sta	ndaro	i sym	bols.							
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TWP	RANGE	SEC.	NE%	NW1/4	SW¼	SE%	NE%	NWW	5W%	SEW	NE%	NW4	SW%	SE14	NEW	NW%	SW1/4	SE1/4	TOTALS	
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12	d. Rema	ated rks: I	Marci daho	h 31 Pow	, 19 er Co	76. omna	nv h	as f	Lled	or	wil:	ı be	fili	ng t	he_	above	-ref	eren	ced_adjudicat	ion
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American Falls nlant

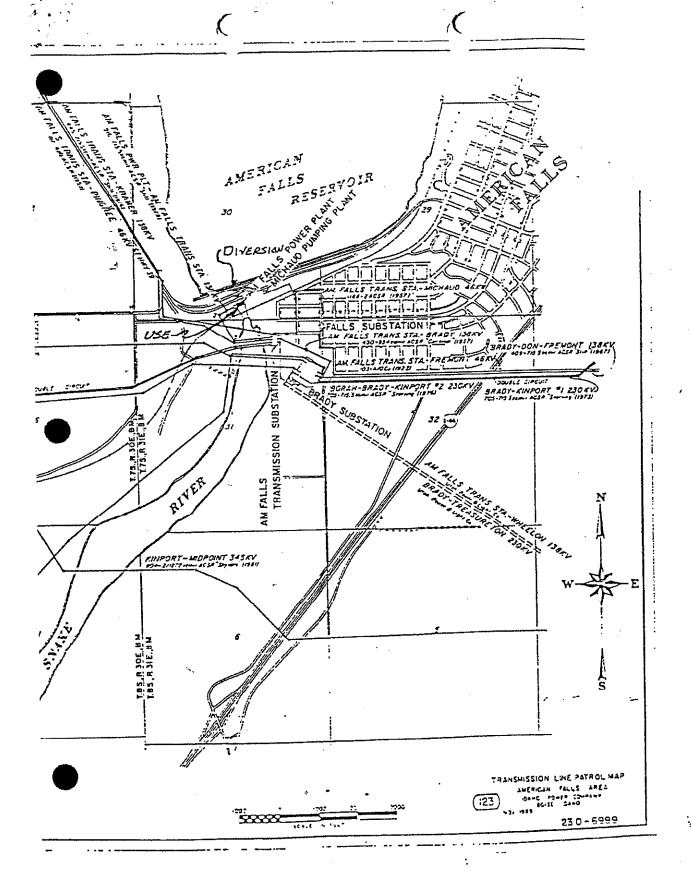
13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number. (SEE ATTACHED)

Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth. IDAHO POWER COMPANY

By:
James C. Tucker (Applicant)

Actorney



		I .				
Receive	ed by	_ Date	Time	Pr	eliminary check by	
Eee \$ _		_ Receipted by _		#	Date	
Lublica	tion prepared by		Date		Published in	
Publica						
					- WATER RESOURCES	
Thi	is is to certify that I	have examined A	Application for	Permit to app	propriate the public waters of the Sta	ate of
Idaho N	10	, an	d said applicat	tion is hereby		
1. App	rovat of said applic	ation is subject to	the following	limitations a	nd conditions:	
a. S	SUBJECT TO ALL P	RIOR WATER RIG	HTS.			
b. P	Proof of construction	n of works and a	pplication of v	vater to bene	ficial use shall be submitted on or be	efore
	<u> </u>		19			
c. T	he rate of diversion vater rights for the	n, if water is to be same land shall n	used for irriga ot exceed 0.02	ition under thi 2 cubic feet pe	is permit, when combined with all other second for each acre of land.	ıer
T t	ights to the use of	water, other than his permit and sh	hydropower, v all not give ris	vithin the Stat e to anv right	poses shall be junior and subordinate to of Idaho that are initiated later in time claim against any future rights to the itiated later in time than the priority of the control of the co	me he

e. Other:

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE N	UMBER:	39576	
dent. Number	A01-10382		
Date Received		·	
Receipt Number			

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

	•	•
lease type or print clear	rly	and the state of t
. Name of Claimant (s)	Idaho Power Company	Phone (208) 383-2670
Mailing Address	P. O. Box 70 Boise, Idah	o Zìp <u>83707</u>
. Date of Priority (Only o	ne (1) per claim) <u>July 15, 1901</u>	
. Source of water supply	(a) Snake River	
which is tributary to (b) <u>Columbia River</u>	
a. Location of existing	point of diversion is: Township 7S	Range 31E Section 30
1/4 of SW	1/4 of <u>SE</u> 1/4, Govt. Lot, <u>E</u> B.M.,	County of Power
·	version if any:	
b. If instream flow, beg	ginning point of claimed instream flow is:	•
	Range Section .	·
ending point is: Towns	hip Range Section	n 1/4 of 1/4 c
1/4, Govt. Lo	btB.M., County of	
including the dates of a	diversion works (Dams, Reservoirs, Ditches, Wany changes or enlargements in use, the dimensarged and the depth of each well. American	isions of the diversion works as
including the dates of a constructed and as eni	any changes or enlargements in use, the dimen	nsions of the diversion works as

						•		(both	dates	are ir	nclusive	2)		(cf	s)		(a	bre fee	et)
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Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

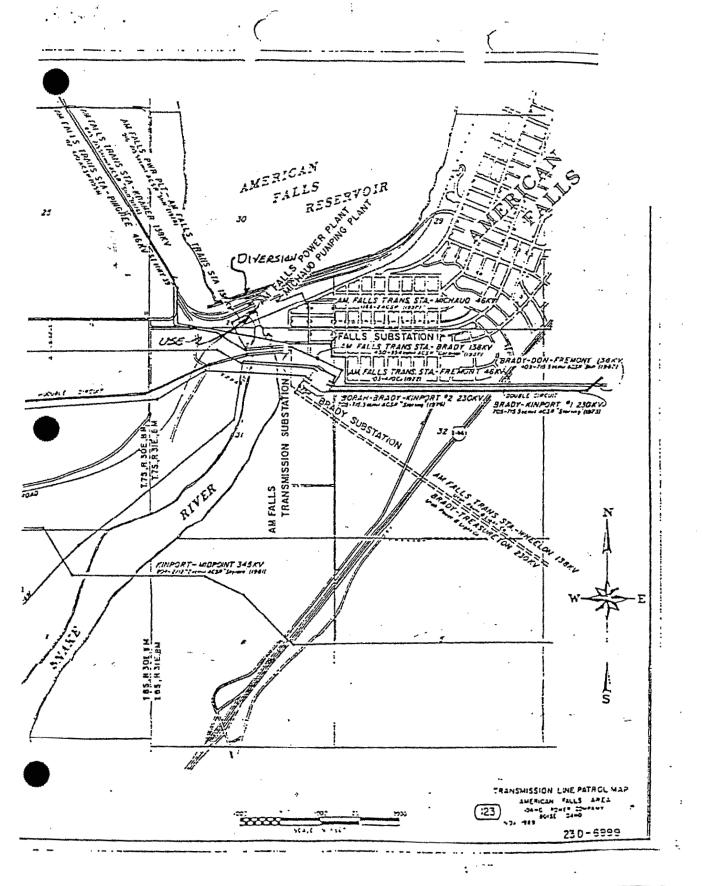
Scale: 2 inches equals 1 mile

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Last Nama Tacha Darram Company Idant No.

Planting STRIPS Bear SKIP BY



15.	Basis of Claim (check one)	Beneficial Use_	Posted No Book 4, War	tice X ter Rights	License	Permit	ty /Fwhihi
	If applicable provide IDWR	Water Right Number	ber <u>Certifica</u>	<u>te of Water</u>	: Right Trans	fer#464	(Exhibit F
•	Court Plaintiff vs Defendant	Ca	se Number	···	Decree D	ate	
			······································				
16.	Signature (s) (a.) By signing below, I/We "How you will receive notic wish to receive and pay a s Number of attachments	e in the Snake Riv mall annual fee fo	er Basin Adjudicati	lon." (b.) I/W	edo do i	orm entitled	
	Individuals: I do solemnly s	wear or affirm that	the statements co	ntained in the	foregoing docum	nent are tru	€
and	correct. Signature of Claimant (s)				Date		
					Date		
For	Organizations: I do solemn	ly swear or affirm	that I am	Attorney			
of	Idaho Power Compa	ny			Title that I have signe	d the forea	oina
		ganization				_	•
doc	ument in the space below as	TCCOLINEY	itle	or	Organizatio	Company	
and	that the statements contained	d in the foregoing	document are true	and correct.	Organizatio	111	
	Signature of Auth	orized Agent		16-			
	Signature of Auth	٠٠٠ - ١٠	Jan '				
	Title and Organiza	ation Attor	ney, Idaho Pov	ver Company	D	ate <u>/0 -</u>	18-96
•							
Stat	e of Idaho/or)					
C		,					
	nty of <u>Twin Falls</u>		4	,	10+1		
Sub	scribed and sworn (or affirme	ed) before me this	184	day o	i <u>Ullabe</u>		19 _96
	SEAL		Notary Public	Thaion	Wart	Strick	lands
				Goodin)	
	and the second		Residing at	Door	<u> </u>		
			My Commission	Explres	12-17-97	•	
		Pleas	Print Name				
	Notice of Appearance:	James C. Tu	alear		Il ho coting on at		L . L . 16
of th	ice is hereby given that i, ne claimant signing above, an				Il be acting as at ne director to the		
	uld be mailed to me at the ad						gg a.50.0
Cim	notura	< 1,5	2				
Sigi	nature		-				
Add	ress P.O. Box 1906, 1	Twin Falls, I	D 83303-1906	······			
,,,	10-18-96						
ate	= 10-18-79						÷

ose and day that he is of lawfils - go and the appropriator tice and who we maine is subscribethout. volice, of which the foregoing is a true copy, in place at or ne a conspicu Sintended diversion at 7:15 siclock PM. the friends of gray of the beenled and sworn to before a a.L. Richardson, Clark of the US Dich Court is with follow. digat Frelockom, august 12, 1901. Recorded at request of W. E. Heard By Sua To Lead, County Recorder. Deputy, Enate River Train J. Tarket, of Salt Lake City State of Utah, do pla water of Snight River there and (6,000) Rich I at which disting to direct said water is ship I South, Range 31 East, Doing Meridia The purposes for which I claim the water are; The place where I water to view the water is, Claime Jounty, Daho. The general course, length, destination and tonduit by which & propose to direct said water is at follows; for mechanical purposes by a turnel 400 feet, more or bee in length, running partly through Section 30 and 31 J. 7 S. Q. 31 E. B. M., and by their pipe 185 feet, more or less in length, for fumping furfaces in the al Township and Range. For irrigation, by means of open canals 15 feet wide by 3 feet deep, running northerh and Southerly about 15 mile in length to irrigate all the lands in Section 13,14 23, 24, 26, 35 and 36, in Township & South, Range 30 best Baise Writian; also Sections 1, 2, 9, 10, 11 and 16 in Townships South,

Cange 30 das & Doise Meridians; also Sections 19, 30 and 31 in Township 7 South, Range & East; Beise Menidians,
That it is my intention to fully pompletithe approprial all the amount of water herein claimed in sompliance we the Statute of the State of Odaho providing forthe approprial and diversion of water,

Datat this 15th day of July, 1781.

Datat The July Rogers at 1 of solocker July 17, 1901.

Datat of Blaine,

Datat of Blaine,

Datat Concerned notice is hereby given!

Let I Boster, Emily Boster, Eller Duchma, Edm Willes pie Poles.

Martin Milliam I. Moster, Eller Duchma, Edm Willes pie Poles.

Martin Milliam I. Moster, Eller Duchma, Edm Willes pie Poles.

Missin Milliam I. Moster, Eller Duchma, Edm Willes pie Poles.

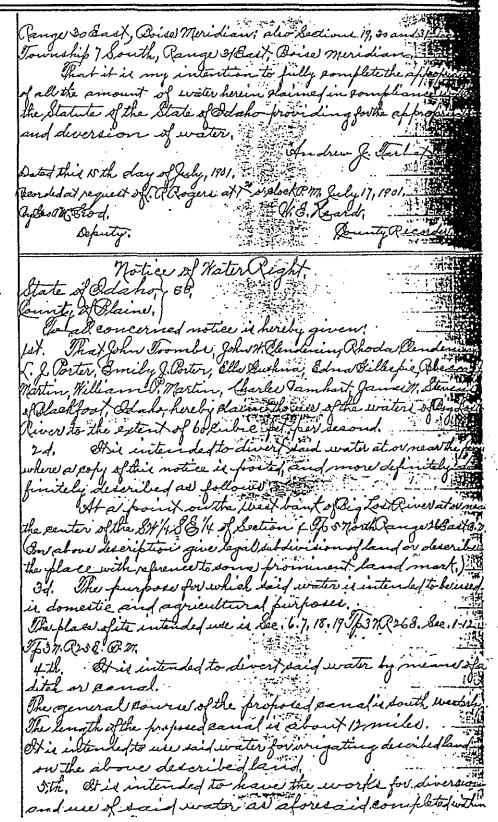
River to the extent of bold bie for her become.

24. At is intended to divert said water at or means where a popy of this notice is posted and move definitely furtely described as July 1000.

the senter of the 84/48 & 14 of Section & 176 5 Morth Lange 36. On above description que la gill diblication of land or describe place with place to some fromment land mar 34. The purpose for which said water is intended to be in domestic and agricultural purposes.

The place of its intended we is Sec. 6.7, 18.19 \$ 17.268. Sec. 17.37. R268. Sec.

the or canal.
The general course of the proposed sonalis south the The length of the proposed canalis about 12 miles.
This intended to we said water for wrighting described to on the above described land.



O.B.Am.F.-W.P

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transfer Right No. 464

This is to certify that Idaho Power Company, a corporation of the State of Maine, qualified to do business in the State of Idaho, claims a right to the use of 253 o.f.a. of the waters of Snake River for power purposes, initiated and perfected under and by virtue of that certain water location notice by Andrew J. Tarbet, dated July 15th, 1901, and recorded in Book 4 of Water Rights at Page 266 in the records of Blaine County, Idaho, now situated in Water District #36 of the County of Power, State of Idaho, to-wit, at the hydro-electric generating station on the west side of Snake River at American Falls, Power County, State aforesaid, sometimes known as "West Side Plant"; that Idaho Power Company has become the owner of the said water right by mesne conveyances and was until recently the owner of said West Side Plant; that the waters covered by said water right were diverted from said stream in the South Half of the South Half (SaSa) of Section 30, Township 7 South, of Range 31 E., B.M., and conducted to the said West Side Plant and there used; that the said Company discontinued the use of said waters of the said water right as used at the said West Side Plant in June, 1927, and established a new place of use for such water on the east side of Sneke River at American Falls, County and State aforesaid, at that is commonly known as the American Falls East Side Power Plant of Ideho Power Company; that the new point of diversion of said waters is North 69 degrees 30 minutes West 1872.3 feet from the Southeast Corner of Section 30, in Township 7 South, of Range 31 Z., B.M., and such waters are conducted to said new place of use through the forebay of the American Falls East Side Power Plent of Idaho Power Company.

That upon the application of said Idaho Power Company for a transfer of water right made before the Commissioner of Reclamation of the State of Idaho, and said application having been granted, the right to the use of the said 253 c.f.s. of waters so initiated and perfected by and under said water location notice at the said new place of diversion and said new place of use be, and the same hereby is, acknowledged; that the right to the use of the waters aforesaid hereby acknowledged is restricted to said American Falls East Side Power Flant of Idaho Power Company, as provided by the laws of the State of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation of Idaho at Boise, Idaho, this 17th day of June, 1929.

Commissioner of Reclemation

STATE OF IDAHO, DEPARTMENT OF REGLAMATION

In the Matter of the Application of Idaho Power Company for Transfer of Water Right, Water District No. 36.

ORDER GRANTING TRANSFER

WHEREAS, on the 10th day of June, 1929, at the Department of Reclamation of Idaho, at Boise, Idaho, the matter of the application of Idaho Power Company for a transfer of water right came on regularly for hearing, pursuant to the published notice; and

WHEREAS, no one appeared at the hearing to protest the application, and the evidence submitted by the Applicant in support of its said application shows that no one shall be injured by said transfer; and

WHEREAS, the Matermaster of the district in which the old and new points of diversion and of use are located has approved said application;

IT IS, THEREFORE, HEREBY ORDERED that the said application for transfer of 255 e.f.s. of the waters of Snake River be granted and certificate issue to the Applicant herein; and

IT IS, THEREFORE, HEREBY FURTHER ORDERED that due notice of the hearing of said application has hereby been given.

IN WITNESS WHEREOF, I have hereunto set my hand and affired the official seal of my office at Boise, Idaho, this 17th day of June, 1929.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE N	JMBER:	39576	
Ident. Number	- A01-10	0383	
Date Received			
Receipt Number			

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

	Idaho Power Co			one (208) 383-2	
Mailing Address	P.O. Box 70	Boise, Ida	ho	Zip 83707	
2. Date of Priority (Only one	(1) per claim) At	igust 1, 1901		_	
 Source of water supply (a which is tributary to (b)) Snake River Columbia Riv	ver		•	
i. a. Location of existing pol	nt of diversion is: Tov	wnship <u>75</u>	Range 31E	Section 30	1
1/4 of <u>SW</u> 1	/4 of <u>SE</u> 9194, Go	vt. Lot, B.N	I., County of Po	wer	
Additional points of diver	sion if anv:	. :			
b. If Instream flow, beginn	- ·	. 5			
Township R	angeS	ection	, <u></u> 1/4 of	1/4 of	1/4,
Govt. Lot B.M., C	ounty of			· .	
ending point is: Township	Range	Secti	on ,	1/4 of	1/4 o
1/4. Govt. Lot	B.M., County	of	, ¹	:	
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Description of existing div including the dates of any constructed and as enlarg	changes or enlargem	ents in use, the dim	ensions of the diver	sion works as	=tc),
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b.	if water	ls us orres	ed for o pondin	other p g place	urpos e of us	es, pla se belo	ace a s ow. Se	symbo se inst	of us truction	e (ex ns fo	ample: stand	ard sy	mbols	estic) s.	•				
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Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

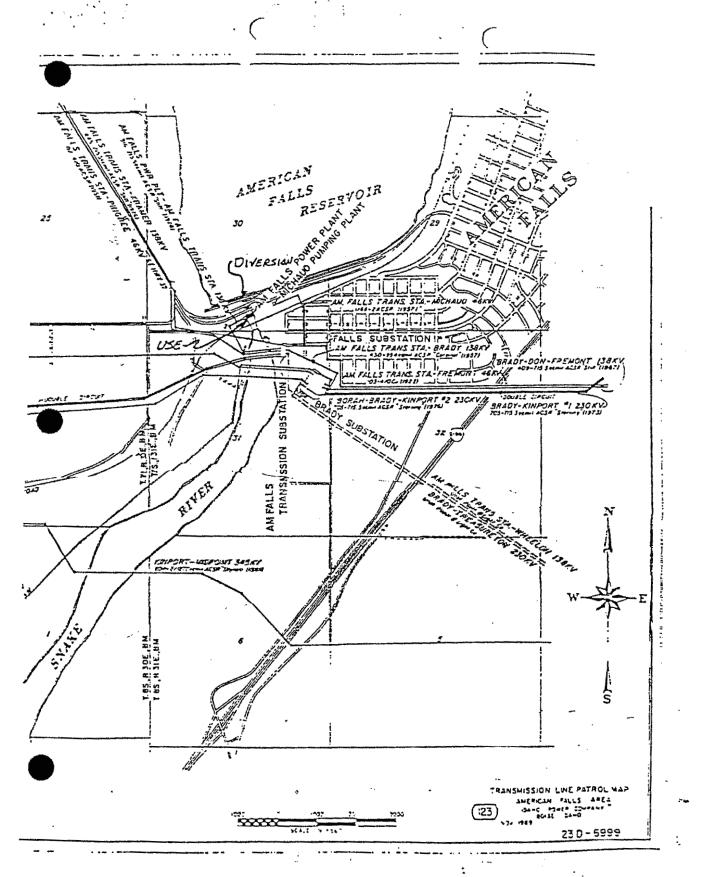
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Idaho Power Company Ident No.

Conier White State Vellow Claimant

Last Name



15.	Basis of Claim (check one) B D If applicable provide IDWR Wat	eneficial Use	Posted Notice	X Licer	se Permi	15-1+ 4
	If applicable provide IDWR Wat	ecree ter Right Number	Certificate	of Water H	ight Transfer	No.463(Exhibit
)	Court	Case Nu	ımber		Decree Date	
	Plaintiff vs Defendant					
16.	Signature (s)					
	(a.) By signing below, I/We acl					
	"How you will receive notice in					
	wish to receive and pay a small		nthly coples of the	docket sheet.		
For	Number of attachments Individuals: I do solemnly swea	r or affirm that the s	statements contair	ned in the fore	oing document ar	e true
	correct.				-	
	Signature of Claimant (s)				Date	
	- Q			•	Date	
	*					
For	Organizations: I do solemnly s	wear or affirm that I	am Att	orney		
of						
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doc	cument in the space below as	Attorney Title		of Idaho		
	d that the statements contained in	1144	•	Leorract	Organization	
ano						
	Signature of Authoriz	red Agent		· (u		
	_					10 18 51
_	Title and Organization	n Attorney,	Idaho Power C	ompany	Date	10-10-76
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Sul	bscribed and sworn (or affirmed)	before me this	1800	day of	/	19 _96
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17.	. Notice of Appearance:					
No	otice is hereby given that I,	James C. Tucl			acting as attorney	
	the claimant signing above, and t		red by law to be n	nailed by the di	rector to the claim	ant signing above
sh	ould be mailed to me at the addre	ess listed below.	•			
Sig	gnature	- lue	<u> </u>	_		
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La	ast NameIdaho Power Cor	npan yldent. Numbe	f		Copies White-Sta	t e, Yellow- Claimant

a true and court copy, in a conficient place was the ha of intended diversion described in said brotice to-wit At West end of O.S. L. R.R. Bridge about 4 rocks to the right of track on fence port at bank of rivel. 6.13. Randall. Subscribed and sworn to before me this 19 day of march 18. W. a. Johnson

. Justice of Reaco Recorded at Request of Les Ingersoll for march 80. 1901 at 32 oct W. E. Heard bounty Recorder.

By les a Witerd Deputy.

Snake River. Notice of Water Right Location. notice is hereby given that I. Grady, of the City of Cocatello, County of Durance, State of this First, day of august, 1901, appropriated and hereby claim (2000) Julie Feet for second flowing at the boint of internation, which said faint of intended diversion articularly described as follows, to wit: At the head of the island of the Q. Qy Bridge, at amorico Falls, Stato and on the line of the special furfactions. furface for which said is The place of inter led wie in the Pity of Pocatelle word of merican Talle, and such other places in them all may require the wel of water for the above nameds That the general pointe of the proposed samulove it on each side of the Snake Rivery for such distance as in be required. Diver of said water as aforesaid, e ive years. agofy of this notice was duly frosted at orn in on the Frist day of august, 1901. Vituel my hand at Pocatello, County of Alaho, this 11th day of august, 1901. appropriator and Claimant J.

Warden, also bestrone 1, 2, 9, 10, 11 a with hy 3 feet dolf, purming northerth and boutherth about 15 miles in beatingthe to wagate all the hands in beatingth? 19 is by meanil of ofen canaled 15 feet The goneral course, beneath, destination and by which a follower, and follows; all and warred and follows; all and showing the warred for the state through abolious so and so, and by state full through abolious so and so. hus in langth, humin need to use the water raplacene usported. of machinery, and The proposed for which didning the water and Looo) semination thousand (6,000) Rubies feet feet second of times. notice is broly given. Louch auce Beforty. St. E. Hard En Stroat Red earded of request of HA Tredupt I redoctor, augusts, 1901. a. Geoloudson, Clark of the of Bouch a. At 7:15 soidlock Cinith had do gougust n the original notice, of which the foogoing is at two Lopy, were posted in a sondrienous places of or near the deposed and say that he so of laufeld ago and the appropriates and obtained in the sudden and foregraph described in the sudden and foregrang notice and subord named in subscribed thout.

The that is to terriorite in said notice nothing, and that

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STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transfer Right No. 463

This is to certify that Idaho Power Company, a corporation of the State of Maine, qualified to do business in the State of Idaho, claims a right to the use of 611 clf.s..of the waters of Snake River for power purposes, initiated and perfected under and by virtue of that certain water location notice by J. H. Brady. dated August 1, 1901, and recorded in Book 4 of Water Rights at Page 265 in the records of Blaine County, Idaho, now situated in Mater District #36 of the County of Power, State of Idaho, to-wit, at the hydro-electric generating station on the island in Snake River at American Falls, Power County, State aforesaid, sometimes known as "Island Plant"; that Idaho Power Company has become the owner of the said water right by meane conveyances and was until recently the owner of said Island Plant; that the waters covered by said water right were diverted from said stream in the South Helf of the South Helf (SiSi) of Section 30, Township 7 South, of Range 31 K., B.M., and conducted to the said Island Plant and there used; that the said Company discontinued the use of the said waters of the said water right as used at the said Island Plant in June, 1927, and established a new place of use for such water on the east side of Snake River at American Falls, County and State aforesaid, at what is commonly known as the American Falls East Side Power; Plant of Idaho Power Company; that the new point of diversion of said waters is North 69 degrees 30 minutes West 1872.3 feet from the Southeast Corner of Section 30, in Township 7 South, of Range 31 E., B.M., and such waters are conducted to said new place of use through the forebay of the American Falls East Side Power Plant or Idaho Power Company.

That upon the application of said Idaho Power Company for a transfer of water right made before the Commissioner of Reclamation of the State of Idaho, and said application having been granted, the right to the use of the said fill o.f.s. of waters so initiated and perfected by and under said water location notice at the said new place of diversion and said new place of use be, and the same hereby is, acknowledged; that the right to the use of the waters aforesaid hereby acknowledged is restricted to said American Falls East Side Power Plant of Idaho Power Company, as provided by the laws of the State of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation of Idaho at Boise, Idaho, this 17th day of June, 1929.

Commissioner of Registration

STATE OF IDAHO, DEPARTMENT OF RECLAMATION

In the Matter of the Application of } Idaho Power Company for Tronsfer of } ORDER GRANTING TRANSFER Water Right, Water District No. 36.

WHEREAS, on the 27th day of May, 1929, at the Department of Reclamation of Idaho, at Boise, Idaho, the matter of the application of Idaho Power Company for a transfer of water right came on regularly for hearing, pursuant to the published notice; and

WHEREAS, no one appeared at the hearing to protest the application, and the evidence submitted by the Applicant in support of its said application shows that no one shall be injured by said transfer; and

THEREAS, the Watermaster of the district in which the old and new points of diversion and of use are located has approved said application;

IT IS, THEREFORE, HEREET ORDERED that the said application for transfer of 611 c.f.s. of the waters of Snake River be granted and cortificate issue to the Applicant herein; and

IT IS, THEREFORE, HERREY FURTHER ORDERED that due notice of the hearing of said application has hereby been given.

IN WITHESS WHEREOF, I have hereunto set my hand and effixed the official seal of my office at Boise, Idaho, this 17th day of June, 1929.

Commissioner of Reclamation

WATER RIGHT NO. 01-10384

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE N	UMBER:	139576 سريم	
Ident. Number	101-10	3 84	
Date Received		Ì	
Receipt Number			

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

Mama of Claimant (c) Table Down Course	any Phone (208) 383-2670
1. Name of Claimant (5) Idano Power Compa	11018 (208) 383-2670
Mailing Address P. O. Box 70	Boise, Idaho Zip 83707
2. Date of Priority (Only one (1) per claim) Januar	ry 1, 1929
3. Source of water supply (a) Snake River	
which is tributary to (b) Columbia River	<u>r</u>
4. a. Location of existing point of diversion is: Town	nship 7S Range 31E Section 30 ,
	nt. Lot, E B.M., County of Power
1/4 or <u>3w</u> 1/4 or <u>3E</u> 1/4, Govi	n. tor, _ s - b.w., County or
Additional points of diversion if any:	
b. If instream flow, beginning point of claimed ins	stream flow is:
Township Range Sec	ection , 1/4 of 1/4,
Govt. Lot B.M., County of	
anding point is: Township Bange	Section 1/4 of1/4
enong points. Tomoing range	1
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Description of existing diversion works (Dams, Re Including the dates of any changes or enlargement	Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
Description of existing diversion works (Dams, Re Including the dates of any changes or enlargement	Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), ents in use, the dimensions of the diversion works as
Description of existing diversion works (Dams, Re Including the dates of any changes or enlargement	Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), ents in use, the dimensions of the diversion works as
Description of existing diversion works (Dams, Re Including the dates of any changes or enlargement constructed and as enlarged and the depth of each	Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), ents in use, the dimensions of the diversion works as
Description of existing diversion works (Dams, Re Including the dates of any changes or enlargement constructed and as enlarged and the depth of each	Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), ents in use, the dimensions of the diversion works as ach well. American Falls Power Plant

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Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

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State of Idaho/or County ofTwin Falls) SS.	
Subscribed and sworn (or affirmed) b	efore me this	day of
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EXHIBIT C

ROSHOLT, ROBERTSON & TUCKER

Chartered ... ATTORNEYS AT LAW

Twin Falls Office 142 3rd Ave. North P.O. BOX 1906 TWIN FALLS, IDAHO 83303-1906 TELEPHONE (208) 734-0700 FAX (208) 736-0041 Boise Office 1221 WEST IDAHO, SUITE 600 P.O. BOX 2139 BOISE, IDAHO 81/01-2139 TELEPHONE (208) 336-0700 FAX (208) 344-624

October 23, 1996

Idaho Department of Water Resources 1301 North Orchard Statehouse Mail Boise, ID 83720

HAND DELIVERED TO SOUTHERN REGION

IDAHO DEPARTMENT OF WATER RESOURCES
TWIN FALLS, IDAHO

ATTN:

JOHN A. ROSHOLT

JAMES C. TUCKER

GARY D. SLETTE

JERRY V. JENSEN

BRUCE M. SMITH JOHN K. SIMPSON

PATRICK D. MADIGAN

NORMAN M. SEMANKO

TIMOTHY J. STOVER

J. EVAN ROBERTSON

Karl Dreher, Director

Dave Tuthill, Adjudication Bureau Chief

Gentlemen:

Please find enclosed the following water right application and adjudication claims which we have presented for filing on this date on behalf of the Idaho Power Company:

- 1) Application for Permit 7,850 cfs for power purposes @ American Falls;
- 2) Notice of Claim 1,400 cfs for power purposes @ American Falls;
- 3) Notice of Claim 6,000 cfs for power purposes @ American Falls;
- 4) Notice of Claim 2,000 cfs for power purposes @ American Falls;
- 5) Notice of Claim 136 cfs for power purposes @ American Falls; and
- 6) Notice of Claim 3,500 cfs for power purposes @ Bliss power plant.

These filings are being made to supplement previous filings by the Company based upon the results of hydraulic capacity tests completed by the Company at various power facilities. These capacity tests were initiated in an effort to verify the previous SRBA claims filed by the Company. Tests at all of the Company's facilities have not been completed and further amended or supplementary filings may be forthcoming.

Idaho Department of Water Resources Am: Karl Dreher & Dave Tuthill October 23, 1996 Page 2

The filings at American Falls are further complicated, and in many respects necessitated, by the history of the development of the American Falls Reservoir and the adjudication filings for that facility made by the United States. Our review of pertinent records indicates that prior to the construction of the first American Falls Dam in 1927, the Company owned and operated three small power plants at American Falls, the West Side, Island, and East Side Plants. The diversion structure at the East Side Plant was capable of diverting 6,000 cfs in 1920. Permit No. 4168 was licensed in 1920 for 1,400 cfs, and Permit No. 14067 in 1924 for 4,600 cfs to make up the difference. In 1921, the Company filed an application to appropriate an additional 1,200 cfs for power purposes (Permit No. 15201/01-2041), along with an application for a permit to store 300,000 AF of water at the American Falls site. (Permit No. R-273/01-2065.) In each case, permits were subsequently issued to the Company.

About that same time, the Bureau of Reclamation became interested in the American Falls area as a reservoir site for the Minidoka Project. On June 15, 1923, the United States and the Company entered into a contract by which the United States acquired a portion of the Company's land and the water rights for the development of the American Falls site (The actual deed is dated April 13, 1926). This included the West Side and Island power plants. The Company retained the East Side Plant. The 1923 contract provided, among other things, that the Company was to acquire 45,000 AF of primary storage and 255,000 AF of "secondary storage" along with the right to use the water discharged from the dam for power production in the East Side Plant. The East Side power plant was not connected to the dam, so it made no use of the extra head created by the impoundment.

With the construction of the American Falls Dam in 1927, the capacity at the East Side Plant was increased to 9,000 cfs, and the corresponding the water rights consisted of the following:

- 1. 253 cfs With a priority date of July 15, 1901, transferred from the West Side Plant to the East Side Plant on June 17, 1929, by transfer No. 464;
- 2. 611 cfs With a priority date of August 1, 1901, transferred from the Island Plant to the East Side Plant on May 4, 1929, by transfer No. 463;
- 3. 1,400 cfs Permit No. 4168, with a priority date of September 3, 1908, licensed in 1920 to American Falls Power Company, No. 01-02017;

Idaho Department of Water Resources
Amn: Karl Dreher & Dave Tuthill
October 23, 1995
Pars 3

4.	4,600 cfs	Permit No. 14067, with a priority dated of March 8, 1919, licensed in 1924, No. 01-02032;
5.	2,000 cfs	Permit No. 16635, with a priority dated of October 15, 1926, licensed in 1971, No. 01-02046;

8,864 cfs TOTAL

The Company has previously filed adjudication claims on two of the licensed rights, Nos. 4 and 5 above (Water Right Nos. 01-02032 and 01-02046). Adjudication claims for Nos. 1 and 2 (the 1901 rights), No. 3 (No. 01-02017) along with a beneficial use claim for the 136 cfs necessary to bring the total water rights at the facility to 9,000 cfs are part of the current filing.¹

Permit Nos. 01-2041 and 01-2065, the permits issued to the Company for the 1200 cfs flow right and 300,000 AF storage right, respectively, were never licensed. In 1971, the Department of Water Administration (DWA) gave to the Company notice of its intention to cancel each of those permits for non-development. The Company opposed the cancellation based on provisions in the 1923 Contract, contending that the Company reserved its water rights at the American Falls site. The 1923 Contract, immediately following the provision transferring the Company's water rights to the U.S., provided:

But it is expressly agreed and understood that the water rights and rights to the use of water which it is herein agreed that the Company shall have are reserved out of its existing appropriations and rights as independent rights under its own filings and appropriations and of the dates of priority to which the Company is entitled under such appropriations and are not to be considered as mere contract rights under contract with the United States. (1923 Contract, para 9(d), at p. 11)

Despite that language, the DWA decided that both permits should be canceled. In his written decision, the then director, R. Keith Higginson, stated:

After reviewing the files of the Department and the answer of the Idaho Power Company, the Director finds that the rights established by the Idaho Power Company, by reason of Permit Nos. 01-2041 and 01-2065, have been merged with rights granted the United States of America and that by

You will note that the filings for the rights listed as Nos. 1 & 2 claim are for 6,000 cfs and 2,000 cfs, respectively. Although the Company only transferred the amounts listed above (253 and 611 cfs) to the East Side Plant, the balance of each right is included in the respective claim based on Judge Hurlbutt's recent decision in Basin-Wide # 10.

Idaho Department of Water Resources Atm: Karl Dreher & Dave Tuthill October 23, 1996 Page 4

reason of contracts and agreements entered into between the Company and the United States of America, Bureau of Reclamation, those rights are held in trust for use by the Company under the water rights of the United States at American Falls Reservoir.

The Director further finds that since the Company's rights to water at American Falls Dam and Reservoir are already covered by reason of licenses issued to the United States of America, under Permit Nos. R-269 and 4168² and contracts between the Company and the United States of America, that Permit Nos. 01-2041 and 01-2065 are duplicate and should be canceled. The Company has failed to submit proof that it has constructed the necessary works to divert the water and apply it to beneficial use. (emphasis added)

In 1972, storage behind the American Falls Dam was restricted for safety reasons. This led to a non-governmental replacement program whereby the Company guaranteed bonds issued by the American Falls Reservoir District (AFRD) for reconstruction of the Dam in exchange for the right to connect its power plant directly to the Dam and use the water released from the Dam to generate power. On March 31, 1976 a contract (the "Government Contract") was entered into between AFRD and the United States. In that contract the United States acknowledged the existence of a "falling water contract" between AFRD and the Company and agreed that the Company could use the water released from the Dam, subject to the other provisions of the contract, for power generation purposes. (Government Contract, Art 18, p. 6) The Government Contract, and the use of the falling water, was authorized by the American Falls Enabling Act of December 28, 1973 (P.L. 93-206, 87 Stat. 904). Pursuant to the Government Contract and the Act, the AFRD, as the constructing agency, and the Company entered into a Falling Water Contract which authorized the Company to utilize the water discharged from the Dam in accordance with the Government Contract. (Falling Water Contract, Sec. 3.1, p. 13.) Also on March 31, 1976, the United States, AFRD and the Company entered into a Spaceholder Contract which provided:

Nothing herein shall in any way alter or change the present proportion of the storage rights of the spaceholder, and this Spaceholder Contract and the American Falls Replacement Dam Program constitute a reaffirmation by the United States of the rights of the spaceholder under the Existing Spaceholder Contract, except as modified by this Spaceholder Contract as authorized in the Act of December 28, 1973, and the Government Contract. The provisions of

². Permit No. 4168 for 1400 cfs was licensed to American Falls Power Company in 1920 and is one of the SRBA claims being contemporaneously filed by the Company. R-269 is current license #01-02064, held by the U.S., for 1.8 MAF of storage for irrigation and power purposes. The U.S. has filed an adjudication claim for this water right but did not include power as a purpose of use. See SRBA clm. # A01-02064.

Idaha Department of Water Resource Astr: Karl Dreher & Dave Tuchill October 23, 1996 Page 5

the Existing Spaceholder Contract shall in all respects remain in full force and effect except that the provisions of this Spaceholder Contract with respect to the Replacement Dam, including but not limited to the operation and maintenance thereof and the distribution of water therefrom, shall prevail over the provisions of the Existing Spaceholder Contract wherever and to whatever extent the provisions of the Existing Spaceholder Contract are in conflict with the provisions of this Spaceholder Contract. (Spaceholder Contract, sec., 19, p. 6) [the 1923 Contract is identified as the "Existing Spaceholder Contract" in Part 1, sec. 18]

The spaceholder acknowledges that the water storage rights evidenced by permits, licenses and court decrees for the Existing Dam are held in the name of the United States and by this Spaceholder Contract the water rights are reaffirmed and neither the United States, the Constructing Agency, nor the spaceholders are required to make additional filings for the Replacement Dam. (Spaceholder Contract, sec. 49, p. 23)

Despite the decision by the DWA in 1971 that the "Company's rights to water at American Falls Dam and Reservoir are already covered by reason of licenses issued to the United States of America . . . ", questions remain as to whether additional SRBA filings by the Company are necessary to protect the Company's power rights at American Falls. Notwithstanding the 1971 decision, the contracts entered into in conjunction with the 1976 Dam Replacement Project reaffirmed the 1923 Contract and granted the Company the right to use water released from the Replacement Dam for purposes of power generation. While our review indicates that the United States holds various water rights at American Falls, only two have stated uses which include power generation. These are Water Rights Nos. 01-02064 (previously Permit No. R-269) and Water Right No. 01-04052, for a 1.8 MAF and 115,000 AF, respectively. Interestingly, the adjudication claim filed by the United States on the oldest power right, A01-02064, does not include power as a stated use. The later priority right, No. A01-04052, for 115,000 AF, does include power and contains the following under the remarks section: "Water furnished to private company for power generation." The amount of storage claimed under this right is significantly less than the 300,000 AF (45,000 primary and 255,000 secondary) of storage rights held by the Company under contract. Additionally, the U.S. has not claimed any flow rights for power purposes.

All of this further confuses and complicates the filings concerning American Falls. We are hopeful that with filing of the referenced claims that these issues can be addressed and resolved in the appropriate forum.

Finally, we are also enclosing the necessary fees for the referenced filings. The Company has previously paid the variable water use fees pursuant to I.C. § 42-1414(1)(b)(ii) and, as such, the enclosed fees for the adjudication claims are remitted under subsection

Idaho Department of Water Resources Atm: Karl Dreher & Dave Tunkill October 23, 1996 Page 6

(1)(a) of that section. The filing fees for the water right application for American Falls are being conditionally paid. If it is determined that the water that is the subject of that application is not required, either based on the enclosed adjudication claims or the contract rights held by the Company, we would expect a remittance of the enclosed fees. In that regard, perhaps it would be appropriate to delay the processing of that application until the issues raised by the adjudication claims filed by both the Company and the U.S. at American Falls are resolved.

We will happy to discuss issues relating to any of the enclosed filings with you at your convenience.

Very truly yours,

JAMES C. TUCKER

Encls.

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EXHIBIT D

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April 22, 1971

Tier Permit Nos. 01-2041 and 04-2045

Nr. James E. Bruce Vice-President and Secretary Ethic Town Company Day 7.5 Dinne, State 18707

Sear Me. Exerci-

Perhand yea will find a remonandari Decision cancelling the two above referenced permits.

Kyon have any questions, plante feet free to contact our office.

Yory truly yours.

R. EURT PICCINGO Director

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Enclosure

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BEFORE THE DIRECTOR

OF THE

DAHO DEPARTMENT OF WATER ADMINISTRATION

In the Matter of Permit Nos.

01-2041 and 61-2065 in the

name of IDAHO POWER CUMPANY

MEMORANDUM DECISION

On March 17, 1921, Idaho Power Company submitted Applications to the Idaho Department of Reclamation (remined Idaho Department of Water Administration) requesting authority to divert 1200 cubic feet per second of water and to store 300,000 acro-feet of water to be used for power purposes. The water was to be diverted and stored in the S\frac{1}{2}S\frac{1}{2}Section 30, Township 7 South, Range 51 East, B.M., in Power County for use at the proposed reservoir site and at several sites downstream. Pursuant to these Applications, Permit Nos. R-273/01-2065 and 15201/01-2041 were issued by the Department.

the works had been complete as required under the provisions of Permits 15201/01-2041 and R-273/01-2065. On September 29, 1932, the Department of Reclamation informed the permit holder that it intended to reject the Proofs of Completion of Works and refuse to issue a Certificate, since a Certificate of Completion of Works had previously been issued to the United States of America, Bureau of Reclamation, for the full capacity of the reservoir constructed at the proposed site. The Department further informed the Idaho Power Company that it appeared that the Company rights to divert and store water at that location had been waived and compensated for by contractual agreement between the Company and the United States.

In July of 1967, the Department requested that the Company review the matter and give comments prior to action being taken to cancel the permits. Correspondence was received from the Company, on November 9, 1967, asking the Department to issue the required Certificate to complete the permits and contending that Licenses should be issued.

On October 1, 1970, an Order to Show Cause why the permits chould not be cancelled was issued to Idaho Power Company by the Department. On December 1, 1970, a brief was timely submitted by the Idaho Power Company setting forth, among other things, the terms and conditions of agreements between the Company and the United States.

STATE OF IDAHO DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2 Boise, Idano 83707 (208) 384-2215



R. Keith Higginson Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

IN THE MATTER OF CANCELLATION OF PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE

STATE OF IDAHO NO. R-273/01-2065

IN THE NAME OF Idaho Power Company

ORDER OF CANCELLATION

TRETHE NAME OF
WHEREAS, the permit holder has failed to submit adequate proof of
completion of works due June 21, 1931 ; and,
WHEREAS, on October 1, 1970 notice was sent to the holder of said
permit to appear before the Director of the Department of Water Administration
on or before December 1, 1970 to show cause why said permit should not be
cancelled; and,
WHERFAS, the holder of said permit has failed to comply with the require-
ments of said permit and has not shown adequate cause why such permit should not
be cancelled;
IT IS THEREFORE ORDERED and Permit R-273/01-2065 is hereby CANCELLED.
Dated this 22nd day of April , 19 71 .

R. KETTH HIGGINSON

Director

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

THE REPORT OF THE PROPERTY OF

IN THE MATTER OF CANCELLATION OF PERMIT

Boise, Idaho 83707 (208) 384-2215



R. Keith Higginson

Water Rights Administration Water Resource Investigations Dam and Reservoir Safety Water Wall Drilling Flood Plain Management Irrigation and Flood Control Districts

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO NO. 15201/01-2041 IN THE NAME OF Idaho Power Company

ORDER OF CANCELLATION

WHERFAS, the permit holder has failed to submit adequate proof of
completion of works due June 21, 1931 ; and,
WHEREAS, on October 1, 1979 notice was sent to the holder of said
permit to appear before the Director of the Department of Water Administration
on or before December 1, 1970 to show cause why said permit should not be
cancelled; and,
WHEREAS, the holder of said permit has failed to comply with the require-
ments of said permit and has not shown adequate cause why such permit should not
be cancelled,
IT IS THEREFORE ORDERED and Permit 15201/01-2041 is hereby CANCELLED.
Dated this 22nd day of April , 19 71 .

R. KEITH HIGGINSON

Director

C1- 3041

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER ADMINISTRATION OF THE

STATE OF IDAHO

IN THE MATTER OF PERMITS
NO 15201/01-2041 and
R-273/01-2065 in the name
of IDAHO POWER COMPANY

ANSWER TO ORDER TO SHOW CAUSE

COMES NOW, IDAHO POWER COMPANY (hereinafter called "Company") and for its answer to Order to Show Cause as to why Proof of Completion of Works should not be rejected and Permits 15201/01-2041 and R-273/01-2065 cancelled, states and alleges as follows:

Ι

That the Company, or its predecessors, in 1901 commenced construction of generating plant at American Falls, Idaho, known as the "Island Plant." As power requirements increased, this plant was supplemented by construction at American Falls of the "West Side Plant" and, subsequently, the "East Side Plant."

That prior to June 15, 1923, the Company owned and operated a dam and the three power plants with a total of 4,040 KW generating capacity at American Falls. These plants provided the Company's entire power generation for the American Falls-Blackfoot-Pocatello area, and were a source of large potential development to serve the future power needs of southeastern Idaho.

That the Power Company was preparing to enlarge its dam and generating stations to meet the rapidly growing power demand. Its plans included a storage reservoir which would not only make possible the installation of additional power capacity at American Falls to meet local needs, but also would have served to increase the firm capacity of its downstream plants at Shoshone, Lower Salmon and Swan Falls.

II

That the Company had made or acquired various filings and/or rights on waters of the Snake River for storage and use

of such water for power production at its existing plants and also for its proposed plant expansion, as follows:

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- (a) Appropriation under Water Location by Andrew J Tarbet for 6000 cfs of the waters of Snake River on July 15, 1901, recorded in Dlaine County, Idaho, in Book 4 of Water Rights at Page 266.
- (b) Appropriation under Water Location by J E Brady for 2000 cfs of the waters of Snake River on August 1, 1901, recorded in Blaine County, Idaho, in Book 4 of Water Rights at Page 265.
- (c) Permit No 4168 for 6000 cfs of the waters of Snake River, issued by the State Engineer of the State of Idaho to American Falls Power Company on Application filed September 3, 1908.
- (d) Permit No 14067 for 4600 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed April 7, 1919.
- (e) Permit No 13947 for 1500 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to E C Kiersted on Application filed December 26, 1918.
- (f) Permit No 14909 for 500 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed June 25, 1920.
- (g) Appropriation under Water Location by I B Perrine for 1000 cfs of the waters of Snake River on November 1, 1901, recorded in Lincoln County, Idaho, in Book 1 of Water Rights at Page 241.
- (h) Appropriation under Water Location by Arturus Z Conrad for 1000 cfs of the waters of Snake River on September 13. 1902, recorded in Lincoln County, Idaho, in Book 1 of Water Rights at Page 251.
- (i) Permit No 14881 for 1000 cfs of the waters of. Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed August 9, 1920.
- (j) Permit No 13948 for 5000 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to E C Kiersted on Application filed December 26, 1918.
- (k) Permit No 3685 for 6000 cfs of the waters of Snake River, issued by the State Engineer of the State of Idaho to Fentress Hill on Application filed May 11, 1908.
- (1) Appropriation under Water Location by Joseph H Hutchinson for 10000 cfs of the waters of Snake River on January 17, 1900, recorded in Owyhee County, Idaho, in Book 3 of Water Rights and Millsites at Page 750.

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- (m) Appropriation under Water Location by Joseph H Hutchinson for 10000 cfs of the waters of Snake River on May 4, 1900, recorded in Owyhee County, Idaho, in Book 3 of Water Rights and Millsites at Page 761.
- (n) Permit No 14362 for 4000 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed July 29, 1919.
- (o) Permit No 15201 by Idaho Power Company according to Application No 21476 filed on March 17, 1921.
- (p) Permit No R-273 by Idaho Power Company for storage of 300,000 acre feet per annum of the waters of Snake River filed on March 11, 1921 and approved on June 28, 1921.

III

This was a period of rapid growth in southern Idaho, and the need for additional water for irrigation development was increasing. American Falls was selected by the Bureau of Reclamation as an ideal site for a large and economical reservoir for the storage of water for irrigation use. The United States of America, acting through its Secretary of the Interior, and pursuant to appropriate acts of Congress determined to build a large irrigation storage reservoir at American Falls, using as a part of its reservoir land owned by the Company. This reservoir would require the destruction of two of the Company's plants (West Side and Island plants) and would prevent the Company from developing its own storage reservoir for power production. The Company already owned much of the necessary lands and flooding easements, which it had purchased and obtained for its own reservoir development.

IV

That in order to enable the United States of America to construct the irrigation storage reservoir, the United States and the Company developed a plan under which the Company reserved its existing water rights, and conveyed the necessary portions of its real property and easements to the United States. The Company

retained its East Side generating station with its appurtenant diversion dam, and was guaranteed by the United States the right to the amount and time of use of its reserved water rights. To effectuate this plan a contract was entered into between the United States and the Company on the 15th day of June, 1923, a copy of which is hereto attached as Exhibit A and is hereby made a part of this answer.

v

That under the said contract the Company's rights to storage in the reservoir to be constructed by the United States to the extent of the 300,000 acre feet covered by Permit No R-273 issued by the Commissioner of Reclamation of the State of Idaho under the date of June 28, 1921, were preserved, defined and specifically provided for as follows:

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"In part consideration for the rights and property to be conveyed to the United States by the Company, and as a part of the cost of the proposed development at American Falls the United States grants to the company and the company shall be entitled to the perpetual use of 45,000 acre-feet of storage capacity in the reservoir to be constructed by the United States, such capacity to be for storing the water reserved to the company, and the water referred to in the last sentence of Paragraph 10, the company's right to such storage capacity to be on an equal basis in all respects, except as otherwise provided herein, with other primary storage capacity rights in the reservoir, as defined in the contracts between the United States and the Irrigation Companies and Districts cooperating with the United States in the construction of said reservoir, a form of which contract is attached hereto and marked Exhibit 'C'." (paragraph 16, pp 17 and 18, Exhibit A)

"Between October 1st of any year and June 10th of the following year, the company shall have and is hereby granted for the purpose of regulating and controlling the water reserved to the company under Paragraph 19 hereof, and the water which may be acquired under the last sentence of Paragraph 10, a secondary right to use not to exceed 255,000 acre-feet of storage capacity in the reservoir when such capacity is not then required and not being used by the owners of irrigation rights to the use of such capacity, but shall have no further right to use any part of said 255,000

acre-feet of capacity or any water stored therein after the reservoir is first filled each season, and the company shall in any event release on April 1st of each year all right and claim to such capacity and water stored therein, except 60,000 acre-feet, and shall release all right and claim to the remainder, if any, on June 10th of each year." (paragraph 18, p 19, Exhibit A)

That said contract specifically provided that the Company was not surrendering, or in any way disposing of its existing water rights but was only permitting the United States to use them in connection with its American Falls Reservoir, subject, however, to the Company's reserved rights as follows:

"WHEREAS the company has at American Falls water filings prior to the American Falls filings of the United States sufficient to embrace the entire amount of water reserved to the company under this contract." (paragraph 6, pp 2 and 3, Exhibit A)

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"(d) All the company's water rights, appropriations water filings and permits, at American Falls, or used or intended to be used in connection with the company's power plants and proposed plants at American Falls, except the rights, whether primary or tertiary, expressly reserved to the company, as hereinafter set out. The water rights of the company transferred to the United States for use for power purposes shall be considered as impressed with a right in the United States to change the use of such water from power to irrigation or to store the same for irrigation whenever the Secretary of Interior shall decide that such water is required for irrigation purposes. But it is expressly agreed and understood that the water rights and rights to the use of water which it is herein agreed that the Company shall have are reserved out of its existing appropriations and rights as Independent rights under its own fillings and appropriations and of the dates of priority to which the Company is entitled under such appropriations and are not to be considered as mere contract rights under contract with the United States." (paragraph 9(d), p 11, Exhibit A)

"It is the intent of this agreement that all power rights at American Falls except those granted to the United States herein shall be reserved to the company and that the deeds and conveyances by the company to the United States may contain a reservation in favor of the company of the rights reserved to it under the provisions of this agreement." (paragraph 30, p 30, Exhibit A)

That as a part of the plan for the American Falls reservoir the United States had applied for and received from the Commissioner of Reclamation of the State of Idaho, under the date of March 30, 1921, Permit No R-269 for the storage of 1,700,000 acre-feet in said reservoir and Permit No 15134 for direct diversion of 8,000 second feet in connection therewith.

rights described in paragraph II, supra, were known to the parties at the time of the execution of the contract of June 15, 1923 (Exhibit A hereto), and the contract provisions referred to in paragraphs IV and V, supra, for protecting the Company's right to 300,000 acre-feet of storage covered by its Permit R-273 contemplated that said storage water was included in and formed a part of Permit R-269 and would be provided to the Company from waters stored under Permit R-269.

That in fact, while all the Company's reserved rights were considered in the contract (Exhibit A hereto), the contract specifically provided that said rights were reserved and were "* * * not to be considered as mere contract rights * * *."

VII

That the said reservoir was subsequently constructed and thereafter the United States made all necessary proofs required by the laws of Idaho and proper licenses have been issued to the Secretary of the Interior for the waters covered by Permit Nos R-269 and 15134.

VIII

That in addition to the aforementioned contract with the Company, the Secretary of the Interior entered into numerous contracts with irrigation districts, canal companies and individuals wherein he agreed to make available to them for irrigation use on lands irrigated by them, specific quantities of storage space and

the waters annually stored therein, and that at the present time there are such contracts outstanding covering substantially all of the capacity of said reservoir.

ТX

That by operation of law the Secretary of the Interior holds the water available in American Falls Reservoir under Permit Nos R-269 and 15134 as trustee for the Company and all other contract holders. The Company has continuously applied to a beneficial use its rights in said stored water, as have all other contract holders; and the Company and all other such contract holders are the equitable owners of the right to so use these waters.

X

That a decree was entered in the District Court of the United States for the District of Idaho, Eastern Division, on June 25, 1929, in an action entitled Woodville Canal Co, Plaintiff, versus Clark and Edwards Canal and Irrigation Co, et al, Defendants, adjudicating water rights in Snake River at and above Milner Dam, including those at American Falls. That the numerous parties to said action included many of the water users on the river who claimed rights in American Falls Reservoir, together with the Secretary of the Interior. In such action a stipulation was entered into which was incorporated in the decree which read in part as follows:

"It is further stipulated and agreed that there shall be decreed in the above entitled cause of action, to the Secretary of the Interior of the United States, and his successors in office, for use upon the various projects which have heretofore or may hereafter become entitled to the same by reason of contracts with the United States therefor, the water filed upon by the United States in connection with the construction of the American Falls Reservoir under permit number 15134, and reservoir permit number R-269, under date of priority of March 30th, 1921, the amount of water to be decreed to the Secretary of the Interior of the United States and his successor in office for such use under said date of priority of March 30th, 1921, to be One Million Seven Hundred Thousand (1,700,000) acre-feet per annum for storage in the

American Falls Reservoir and Eight Thousand (8,000) second feet for direct diversion. It is understood and agreed that paragraph two hereof does not apply to the said rights of priority of March 30, 1921, provided for in this paragraph or the rights decreed in the Foster and Rexburg decrees."

"It is stipulated and agreed that the rights of contract holders and any others beneficially interested, now or hereafter claiming or having storage reservoir rights in American Falls Reservoir shall not be affected or determined by the decree to be entered in this action, as to the use to be made of the waters decreed, under such decree, to the Secretary of the Interior under permits described in paragraph No. 4, of this stipulation, the same being permits No. 15134 and R-269."

and concerning which the decree provided:

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"Now therefore, the said stipulation is hereby approved and confirmed by the Court and adopted as a part of this decree, * * *."

WHEREFORE, the Company hereby requests that the Director of the Department of Water Administration enter an order rinding (a) that all or the rights of the Company covered by Permit Nos R-273 and 15502 have been merged into rights granted to the Secretary of the Interior in Permit Nos R-268 and 15134; (b) that the Secretary of the Interior holds and maintains the rights under said permits as trustee for the Company of all of the rights covered by Permit Nos R-273 and 15502; and (c) that in accordance therewith no further action need be taken with respect to Permit Nos R-273 and 15502.

Dated this 1st day of December, 1970.

R F PARRY Twin Falls, Idaho

JAMES E BRUCE Boise, Idaho

Attorneys for Idaho Power Company